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Amendment No. 1 to SB3375

**Southerland
Signature of Sponsor**

AMEND Senate Bill No. 3375*

House Bill No. 3620

by deleting SECTION 2 in its entirety and by substituting instead the following:

SECTION 2. Tennessee Code Annotated, Section 65-25-205(c), is amended by deleting the subsection in its entirety and by substituting instead the following:

(c)

(1) In addition to the powers set forth herein and elsewhere, a cooperative has the power and is authorized to acquire, construct, own, improve, operate, lease, maintain, sell, mortgage, pledge or otherwise dispose of any system plant, or equipment for the provision of telecommunications services as defined by § 65-25-202 and to provide such services within the service area of the cooperative. If the service area of a telephone cooperative is coextensive, in whole or in part, with the service area of a cooperative, the cooperative may provide such services within its service area if:

(A) Such services are utilized primarily for the operation of the electric distribution system;

(B) Such service consists of serving as a re-seller or wholesaler of band width owned or leased by the cooperative; provided, however, that this subdivision (B) shall not contravene, negate or prohibit any agreement or arrangement between a cooperative and a telephone cooperative in existence on the effective date of this act or any future agreement approved by the respective boards of directors between a cooperative and a telephone cooperative; or

(C) Such service is provided over the cooperative's electric power lines.

If the service area of a telephone cooperative is coextensive, in whole or in part, with the service area of the cooperative, with approval of the board of directors of such telephone cooperative, the cooperative may provide any other telecommunications services in the service area of the telephone cooperative, provided that no agreement shall be required for a cooperative to provide any telecommunications service in its service area if the members of such cooperative are in any county having a population of:

<u>not less than</u>	<u>nor more than</u>
14,500	14,600
37,200	37,300
48,125	48,200
7,900	7,970
91,800	91,900
32,400	32,500

all according to the 2000 federal census or any subsequent federal census.

(2) A cooperative may exercise the authority provided by subdivision (c)(1) independently or through a telecommunications joint venture. Additionally, a cooperative has the power and is authorized to acquire, construct, own, improve, operate, lease, maintain, sell, mortgage, pledge or otherwise dispose of any system, plant, or equipment for the provision of telecommunications services as defined by § 65-25-202 and to provide such services outside the service area of the cooperative, with the consent of or through a telecommunications joint venture in conjunction with any other electric or telephone cooperative or municipal electric system in whose territory the cooperative will provide such services.

(3) Nothing in this subsection shall eliminate or modify the obligation of a cooperative to obtain any franchise otherwise required by § 7-59-102 or

subsequent or alternative franchise obligation. A telecommunications joint venture established under the authority of this section shall comply in all respects with § 65-25-230.

AND FURTHER AMEND by adding the following new sections immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION __. Tennessee Code Annotated, Section 65-25-228, is amended by designating the existing language as subsection (a) and by adding the following language to be designated as subsection (b):

(b) To the extent that the provisions of this section conflict with this act, the provisions of this act shall govern.

SECTION __. Tennessee Code Annotated, Section 7-52-404, is amended by designating the existing language as subsection (a) and adding the following language as a new subsection (b):

(b) Notwithstanding the provisions of subsection (a) or any other provision of law to the contrary, a municipal or other governmental electric system providing any of the services authorized in this part shall pay, beginning as of July 1, 2008, in lieu of payments to the appropriate units of government that are equal to all state and local taxes, fees and charges that the system would pay if it were a private provider of such services. The obligation to pay the equivalent of such state and local taxes under this subsection is in lieu of all other tax, tax equivalent or in lieu of tax obligations that would otherwise be applicable to such telephone and telecommunications operations; provided, however, in no event shall such system, without the consent of the local governing body, pay less in local ad valorem tax equivalent payments for its telephone and telecommunications operations in any year than the in lieu of tax payments that it paid pursuant to subsection (a) for fiscal year ending June 30, 2007. Nothing in this section shall amend or impair the obligations of a municipal

or other governmental electric system to make in lieu of tax payments pursuant to Title 7, Chapter 52, Part 3 for its electric system operations.